

APPENDIX E

PROGRAM INCOME

HUD REQUIREMENTS AND DOC POLICIES



HUD REQUIREMENTS AND DOC POLICIES FOR PROGRAM INCOME

The Department of Commerce's policy is that program income funds should continue to meet the objectives of the HUD-funded CDBG program: develop the capacity of communities to address serious local community development needs and principally benefit low and moderate income persons.

Following is a brief summary of the differences in how program income may be used according to whether the CDBG project is open or closed out.

Before Project Closeout -- For CDBG funding years 1992 and Prior:

- Program income received by a grantee before closeout must be used in accordance with the provisions of Title I of the Federal Housing and Community Development Act. All the HUD regulations and requirements that applied during the term of the project will apply to the program income received before closeout. This means that program income must be used for eligible CDBG activities and benefit a minimum of 51% of low and moderate income persons.

After Project Closeout -- For CDBG Funding Years of 1992 and Prior:

- Program income received by the grantee after closeout is subject to the provisions of Title I, until all CDBG grants received by the grantee are closed out by DOC. Meeting Title I requirements means that for each activity funded from program income, federal Davis-Bacon wage rates, environmental review, civil rights, etc. would apply to each activity funded with program income.
- If the grantee does not have another on-going CDBG grant at the time of closeout, most Title I provisions will not apply to the program income. However, the program income must still be used for CDBG eligible activities that principally benefit at least 51% LMI persons.

New Program Income Guidelines for 1993 Funded Projects

Under federal requirements which were final and became effective October 28, 1992, for 1993 funded projects, program income generated at the local level **before and after** close-out must continue to be used in accordance with the provisions of Title I. As such, all regulations and requirements that applied during the term of the project will apply to the program income before and after close-out. Such program income will have to be tracked and reported to states as long as program income continues to be generated.

There is an exception. Under the amended regulations, \$10,000 per year of program income, per grantee, is excluded from the definition of program income. The grantee will be free to use this excluded amount for any general government purpose.

Program Income Plan

If communities are allowed to retain program income, according to DOC policy, income, it is crucial that local governments develop plans for the expenditure of those funds to meet the grantee's most serious community development needs, based on local citizen input. To meet these objectives, grantees will be required to 1) develop an annual budget for program income expenditures based upon revenue projections; and 2) conduct a public hearing to obtain local citizen comment before expenditure. It is critical that communities recognize that CDBG program income should be spent only after serious deliberation of a community's local community development needs and long range objectives. To meet this objective, DOC will require that local government grantees report their program income revenues and expenditures for each fiscal year. This will be reported on forms provided by DOC at the end of each fiscal year. To assure that funds are spent substantially on activities rather than administration, there will be a maximum of 18% allowed for administration costs.

51% Benefit to LMI

According to Department administrative rules from 1988 to the present, all grantees that are allowed to keep program income will have to verify that activities funded with program income received from the disposition of real property or from loans outstanding at the time of closeout principally benefits LMI persons and that program income is used for CDBG eligible purposes. For example:

For Economic Development Activities --

The grantee will have to be able to provide verification that at least 51% of the jobs created by the project utilizing program income are filled by low and moderate income persons; or

For Housing Activities --

Grantees that will be using program income to continue housing rehabilitation will have to verify and document that 51% of recipients of assistance for housing rehabilitation meet the current low and moderate income definition; or

For Public Facilities Activities --

Grantees proposing to use program income for public facility projects must verify that at least 51% of the persons assisted are low and moderate income,